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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
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11 LOUIS GOMEZ

12 Petitioner,

13 vs.
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15 LARRY SMALLS, et al.,

16 Respondents.
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CASE NO. 09-CV-1972W (JMA)

ORDER:

**1) ADOPTING REPORT AND
RECOMMENDATION
WITHOUT OBJECTION
[DOC. 14]**

**2) DENYING RESPONDENT'S
MOTION TO DISMISS
[DOC. 8]**

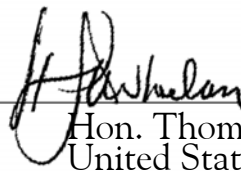
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20 On September 8, 2009, Petitioner Louis Gomez ("Petitioner"), a state prisoner
21 proceeding *pro se*, initiated this action under 42 U.S.C. § 2254. (Doc. No. 1.)
22 Respondents have moved to dismiss pursuant to Federal Rule of Civil Procedure
23 12(b)(6). (Doc. No. 8.) On June 16, 2010, Magistrate Judge Jan M. Adler filed a Report
24 and Recommendation ("Report") to deny Respondents' motion to dismiss. The Report
25 also ordered that any objections were to be filed by July 2, 2010, and any reply filed by
26 July 16, 2010. (Doc. No. 8 at 4:12-17.) To date, no objection has been filed, nor has
27 there been a request for additional time in which to file an objection.
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1 A district court's duties concerning a magistrate judge's report and
 2 recommendation and a respondent's objections thereto are set forth in Rule 72(b) of the
 3 Federal Rules of Civil Procedure and 28 U.S.C. § 636(b)(1). When no objections are filed,
 4 the district court is not required to review the magistrate judge's report and
 5 recommendation. See United States v. Reyna-Tapia, 328 F.3d 1114, 1121 (9th Cir.
 6 2003)(holding that 28 U.S.C.636(b)(1)(c) "makes it clear that the district judge must review
 7 the magistrate judge's findings and recommendations de novo *if objection is made*, but not
 8 otherwise")(emphasis in original); Schmidt v. Johnstone, 263 F. Supp. 2d 1219, 1226 (D.
 9 Arizona 2003) (concluding that where no objections were filed, the District Court had no
 10 obligation to review the magistrate judge's Report). This rule of law is well established
 11 within the Ninth Circuit and this district. See Wang v. Masaitis, 416 F.3d 992, 1000 n. 13
 12 (9th Cir. 2005)("Of course, de novo review of a R & R is *only* required when an objection
 13 is made to the R & R.")(emphasis added)(citing Renya-Tapia, 328 F.3d 1121); Nelson v.
 14 Giurbino, 395 F. Supp. 2d 946, 949 (S.D. Cal. 2005) (Lorenz, J.) (adopted Report without
 15 review because neither party filed objections to the Report despite the opportunity to do
 16 so, "accordingly, the Court will adopt the Report and Recommendation in its entirety.");
 17 see also Nichols v. Logan, 355 F. Supp. 2d 1155, 1157 (S.D. Cal. 2004) (Benitez, J.).

18 Accordingly, the Court accepts Magistrate Judge Adler's recommendation and
 19 **ADOPTS** the Report in its entirety. (Doc. No.14.) For the reasons stated in the Report,
 20 which is incorporated herein by reference, the Court **DENIES** Respondents' motion to
 21 dismiss. (Doc. No. 8.)

22
 23 **IT IS SO ORDERED.**

24 DATED: July 7, 2010

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 26 
 27 Hon. Thomas J. Whelan
 28 United States District Judge